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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/120,806	07/23/1998	MASAYUKI KIKUSHIMA	101151	2611

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EXAMINER

BUDD, MARK OSBORNE

ART UNIT PAPER NUMBER

2834

DATE MAILED: 05/16/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

120806

Applicant(s)

Kikushima et al

Examiner

M. Budd

Group Art Unit

2834

---The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address---

Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 4-25-02
- ☒ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 1 1; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-6, 8, 10-13 and 15-22 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-6, 8, 10-13 and 15-22 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) _____.
- ☐ received in this national stage application from the International Bureau (PCT Rule 1 7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of References Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

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Claims 1-6, 8, 10-13 and 15-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

These claims are vague and indefinite. Note claim 8 lines 7 and 8 it is unclear what the side of the base from which the arms don't extend relates to. This language implies the arms extend from a side opposite the mounting side (which is inaccurate). Since no top, bottom and/or sides are specifically set forth in the claim it is unclear what the afore mentioned claim phraseology defines, what its meter and bounds are.

Claims 1-6 and 8 are rejected under 35 USC 102 as anticipated by Ishida for the reasons set forth in paper no. 35 (2-4-02). Regarding applicants comments it is not unreasonable to assume Ishida leaves the window open when joining the housing pieces so that out gassing of the joining materials are vented from the interior of the housing. As is well known, out gas product can adversely affect aging of the piezo resonator. Sealing the window last would mean less out gas products inside the housing. Note, ?, that it has long been held that the omission of an element with the consequent loss of its function is within the skill expected of the routineer. Thus, to omit the window closer of Ishida if the device did not need isolation from its external environment would have been obvious to one of ordinary skill in the art.

Claims 1-6, 8, 10-13 and 15-22 are rejected under 35 USC 103 as unpatentable over Ishida in view of Fisher, Staudte or Kobayashi for the specific reasons set forth in paper no. 35 (2-4-02). Regarding applicants comments it is noted that the shape of Fisher's piezo element is

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not relevant to the teaching of how to house and frequency adjust the piezo element. Note the window is opposite to the portion of the piezo element where frequency adjustment is performed. In a similar manner, applicants pointing out what Kobayashi and Staudte do not show, does not negate what they do explicitly teach, that a piezoelectric resonator housing should be fully assembled except for a small opening which is the final portion to be closed (sealed).

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

MARK O. BUDD
PRIMARY EXAMINER
ART UNIT 212